

KENT A. RUSSELL (Cal. Bar #52021)  
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Attorney for Petitioner  
MARIO MERINO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARIO MERINO,

Petitioner,

v.

MICHAEL MARTEL, Warden,

Respondent.

No. C 08-3231 CW

**APPLICATION FOR  
CONSENT ORDER  
GRANTING  
SUBSTITUTION OF  
ATTORNEY**

**Attached:**

> Substitution of Attorneys  
> Consent Order

Petitioner MARIO MERINO, by and through his counsel of record Kent A. Russell, Esq., hereby applies to this Court for a consent order granting a substitution of attorneys, whereby Petitioner will henceforth represent himself in this matter.

This Application is based on the Declaration of Kent A. Russell, which follows hereinbelow, and on the forms attached hereto (Substitution of Attorneys, Consent Order Granting Substitution of Attorney).

Dated: July 30, 2008.

Respectfully submitted,

*/s/ Kent A. Russell*  
KENT A. RUSSELL

Attorney for Petitioner MARINO

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2 **DECLARATION OF KENT A. RUSSELL, ESQ.,**  
3 **IN SUPPORT OF APPLICATION FOR CONSENT ORDER**  
4 **GRANTING SUBSTITUTION OF ATTORNEYS**

5 I, Kent A. Russell, an attorney in good standing before the bar of this  
6 court, am current counsel of record for Petitioner MERINO. I hereby declare  
7 as follows in support of the within Application for substitution of counsel.

8 1. I was retained by Petitioner to represent him on state habeas corpus  
9 and, upon exhaustion of state remedies, to file a federal habeas corpus  
10 petition complying with AEDPA.

11 2. I have performed in this capacity to the best of my ability, including  
12 the filing of a federal habeas corpus petition on Petitioner's behalf, pursuant  
13 to 28 USC § 22554. Said petition was filed on July 3, 2008, within less than a  
14 month of the California Supreme Court order denying Petitioner's state  
15 habeas corpus petition. Because of the time constraints of AEDPA, and  
16 because Petitioner is an incarcerated prisoner, prior to the filing of his federal  
17 habeas corpus petition, I did not have time to consult with Petitioner about  
18 his long-term ability or desire to have me represent him in this litigation.

19 3. After the petition was filed, I was informed, through the family  
20 member who has been paying my fees, that the family no longer wished to  
21 retain me in this matter. Promptly thereafter, I wrote to Petitioner informing  
22 him of same, and requesting that he confirm his intention to discharge me by  
23 signing a Substitution of Attorneys form which I had executed, and a  
24 "Consent Order Granting Substitution of Attorney". I also provided  
25 Petitioner with a Request for Dismissal form in the event that Petitioner  
26 wanted to voluntarily dismiss the case.  
27  
28



1 his duties in this litigation, and permit Petitioner to represent himself in all  
2 subsequent proceedings herein.

3 Dated: July 30, 2008.

4 Respectfully submitted,

5  
6 /s/ *Kent A. Russell*  
KENT A. RUSSELL

7 Attorney for Petitioner  
8 MARIO MERINO  
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Attorney for Petitioner  
MARIO MERINO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARIO MERINO,	)	No. C 08-3231 CW
	)	
Petitioner,	)	<b>SUBSTITUTION OF</b>
	)	<b>ATTORNEYS</b>
v.	)	
	)	
MICHAEL MARTEL, Warden,	)	
	)	
Respondent.	)	

Petitioner MARIO MERINO hereby substitutes himself, in propria persona, as his attorney in this matter, in lieu of current counsel Kent. A. Russell.

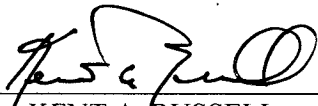
Petitioner's mailing address is as follows:

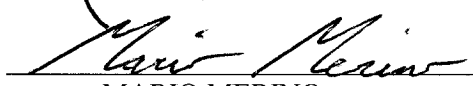
MARIO MERINO  
CDC # V-54572  
Mule Creek State Prison  
B-8-3426  
P.O. Box 409040  
Ione, CA 94560

I consent to this substitution:

Dated: June 9, 2008

Dated: July 21, 2008

  
KENT A. RUSSELL  
Former counsel

  
MARIO MERINO  
New Counsel, In Pro Per

UNITED STATES DISTRICT COURT

NORTHERN

District of

CALIFORNIA

MARIO MERINO

Plaintiff (s),

V.

MICHAEL MARTEL, Warden

Defendant (s),

CONSENT ORDER GRANTING  
SUBSTITUTION OF ATTORNEY

CASE NUMBER: C 08-3231 CW

Notice is hereby given that, subject to approval by the court, Petitioner substitutes  
(Party (s) Name)

Mario Merino, In Propria Persona, State Bar No. \_\_\_\_\_ as counsel of record in  
(Name of New Attorney)

place of KENT A. RUSSELL, Cal. Bar # 52021, Law Offices of Russell and Russell  
(Name of Attorney (s) Withdrawing Appearance)

Contact information for new counsel is as follows:

Firm Name: MARIO MERINO, CDC #V-54572, In Pro Per  
Address: Mule Creek State Prison, B-8-2424 P. O. Box 409040, Colton, CA 94560.  
Telephone: \_\_\_\_\_ Facsimile \_\_\_\_\_  
E-Mail (Optional): \_\_\_\_\_

I consent to the above substitution.

Date: 7/21/2008

Mario A. Merino  
(Signature of Party (s))

I consent to being substituted.

Date: 7/16/2008

Kent A. Russell  
(Signature of Former Attorney (s))

I consent to the above substitution.

Date: 7/21/2008

Mario A. Merino  
(Signature of New Attorney)

The substitution of attorney is hereby approved and so ORDERED.

Date: \_\_\_\_\_

Judge

[Note: A separate consent order of substitution must be filed by each new attorney wishing to enter an appearance.]

**CERTIFICATE OF SERVICE BY MAIL BY ATTORNEY**

I, KENT A. RUSSELL, hereby certify that I am an active member of the California State Bar, and not a party to the within action.

My business address is 2299 Sutter Street, San Francisco, CA 94115 (ph. 415-929-8301).

On the date specified below, I served the indicated document on opposing counsel in this action at their business address by placing the document in an envelope, which was then sealed and postage fully paid thereon, and thereafter I caused the document to be deposited in the United States mail at San Francisco, CA, as follows:

**Case Name:** *Merino v. Martel*

**Date of Service:** July 30, 2008,

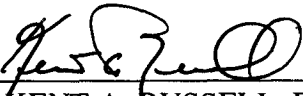
**Document(s) Served:** APPLICATION FOR CONSENT ORDER GRANTING  
SUBSTITUTION OF ATTORNEYS; SUBSTITUTION OF ATTORNEYS; CONSENT  
ORDER.

**Service Upon:**

Mario Merino #V-54572  
Mule Creek State Prison  
B-8-242 U  
P. O. Box 409040  
Ione, CA 94560

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, CA.

  
\_\_\_\_\_  
KENT A. RUSSELL, Esq.